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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,116	02/05/2004	Sandra M. DeBrabant	0739D-000108	3948

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/773,116	DEBRABANT, SANDRA M.	
	Examiner	Art Unit	
	Rodney B. White	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-15, 17-22 and 25 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 23-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 3 is objected to because of the following informalities: In claim 3, line 2, should the word "or" after the word "pair" be - - of - - instead?. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, line 3, "said posts" lack antecedent basis. Claim 15 depends from claim 14, where Applicant claims "a pair of pins". In claim 15, line 3, should the word "posts" have been - - pins - - instead?

The aforementioned problems render the claims vague and indefinite. Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11-12, 14-15, and 17-22, are rejected under 35 U.S.C. 102(b) as being anticipated by Herzer (U.S. Patent No. 3,506,306).

Herzer teaches a headrest assembly comprising: a first housing 3,3a,3b, a second housing 5,6,7 rotatably supported by the first housing, a cross member 4 rotatably supported by said first housing; and a locking mechanism operable between a locked position and an unlocked position, said locking mechanism engaging said second housing in said locked position to lock said second housing in one of a plurality of positions relative to said first housing and disengaged from said second housing in said unlocked position to allow said second housing to rotate relative to said first housing, an adjustment bar 1,2, said adjustment bar fixedly attached to said first housing and operable to attach the headrest assembly to an external structure, wherein said locking mechanism includes a pair of posts 9,10, said pair of posts operable to engage said second housing in said locked position to prevent rotation of said second housing relative to said first housing and to disengage said second housing in said unlocked position to permit rotation of said second housing relative to said first housing, wherein said posts are fixedly attached to said first housing, said first housing including plurality of apertures 8a, said plurality of apertures operable to matingly receive said posts in said locked position to position said second housing in one of an upright

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position, a partially reclined position, and a fully reclined position when said locking mechanism is in said locked position, wherein said partially reclined position fixes the second housing at a 25 degree angle relative to said first housing, further comprising a spring 11, said spring operable to bias said locking mechanism into said locked position, wherein said cross member 4 is fixedly attached to said second housing.

Claims 1-2, 7, 10-13, 17-18, 22, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Terada et al (U.S. Patent No. 4,304,439).

Terada et al teach a headrest assembly comprising: a first housing, a second housing rotatably supported by the first housing, a cross member 4 rotatably supported by said first housing; and a locking mechanism operable between a locked position and an unlocked position, said locking mechanism engaging said second housing in said locked position to lock said second housing in one of a plurality of positions relative to said first housing and disengaged from said second housing in said unlocked position to allow said second housing to rotate relative to said first housing, an adjustment bar 4a,4b, said adjustment bar fixedly attached to said first housing and operable to attach the headrest assembly to an external structure, further comprising a spring 57, said spring operable to bias said locking mechanism into said locked position, wherein said cross member is fixedly attached to said second housing, further comprising an actuation handle 8,8' fixedly attached to said cross member, said actuation handle operable to transmit a rotational force to said second housing via said cross member to rotate said second housing relative to said first housing when said

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locking mechanism is in said unlocked position, further comprising an adjustment bar, said adjustment bar fixedly attached to said first housing and slidably received by said seatback to selectively position the headrest assembly in one of a plurality of positions relative to said seatback.

Claims 1-2, 7, 10-13, 17-18, 22, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hattori (U.S. Patent No. 4,351,563).

Hattori teaches a headrest assembly comprising: a first housing, a second housing rotatably supported by the first housing, a cross member rotatably supported by said first housing; and a locking mechanism operable between a locked position and an unlocked position, said locking mechanism engaging said second housing in said locked position to lock said second housing in one of a plurality of positions relative to said first housing and disengaged from said second housing in said unlocked position to allow said second housing to rotate relative to said first housing, an adjustment bar 11,11; said adjustment bar fixedly attached to said first housing and operable to attach the headrest assembly to an external structure, further comprising a spring, said spring operable to bias said locking mechanism into said locked position, wherein said cross member is fixedly attached to said second housing, further comprising an actuation handle 35 fixedly attached to said cross member, said actuation handle operable to transmit a rotational force to said second housing via said cross member to rotate said second housing relative to said first housing when said locking mechanism is in said unlocked position, further comprising an adjustment bar, said adjustment bar fixedly

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attached to said first housing and slidably received by said seatback to selectively position the headrest assembly in one of a plurality of positions relative to said seatback.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herzer in view of Hattori.

Herzer teaches the structure substantially as claimed but does not teach an actuating handle. However Hattori teaches actuation handle 35 that could be attached to the Herzer headrest to operate the locking mechanism as opposed to pressing the headrest itself. It would have been obvious and well within the level of ordinary skill in the art to modify the headrest, as taught by Herzer, to include an actuating handle, as taught by Hattori, since it would make operation of the headrest much easier and quicker.

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Claims 8-9 and 23-24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art used in the 102(b) rejections do not teach the the second housing having the arcuate slot.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Laraia, Tateyama, , Freber, Takeda et al, and Baumann et al, teach headrests similar to the present invention.

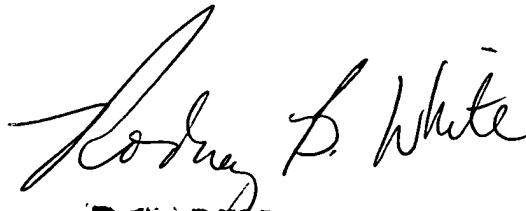
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. white,
Patent Examiner
Art Unit 3636
August 23, 2004



Rodney B. White
Patent Examiner